



The Legislative Wrap-Up

Library and Information Services, Department of Legislative Services

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SINE DIE

The 2003 session adjourned on time at midnight on Monday, April 7. The General Assembly passed the Budget Bill ([HB 40](#)) before *sine die*, thus eliminating the necessity for an extended session. After consideration of 1,959 bills (774 Senate/1,185 House), and 33 joint resolutions, the Assembly passed a total of 629 bills (252 Senate/377 House), but did not pass any joint resolutions.

During the first gubernatorial bill signing on April 8, the Governor signed 52 measures. The new laws include a number of local enactments and others related to insurance coverage and prescription drug subsidies. Future bill signings are scheduled for April 22, May 13, and May 22.

In Maryland, the Governor may sign or veto legislation, or allow it to become law without his signature. The veto power granted to the Governor by the Maryland Constitution is limited in that the legislature may override a veto by a 3/5 majority of each chamber at the next regular or special session. In addition, the Governor may not veto the annual Budget Bill or proposed amendments to the Maryland Constitution. The Governor does, however, have line-item veto power over items in the annual capital budget (the general consolidated capital bond loan) for construction and renovation of State buildings and facilities.

The Constitution further provides that the Governor or a majority of each chamber may call a special session. Since 1970, the General Assembly has met in a special session only 11 times.

AGRICULTURE AND SEAFOOD INDUSTRY

The General Assembly approved proposals ([SB 367/HB 547](#)) to establish a Task Force on the Marketing of Grain and Other Agricultural Products. The task force will evaluate options and develop strategies for marketing grain, especially soybeans, and other products, as well as examine the feasibility of reestablishing a grain export facility at the Port of Baltimore and establishing new

transportation options for its shipment from alternative locations in central Maryland.

The General Assembly considered several proposals to alter the Maryland Agricultural Land Preservation Foundation (MALPF), which was created in 1977 to protect, among other things, agricultural land in the State. Under MALPF, agricultural preservation districts are formed when qualifying landowners sign voluntary agreements to keep their land in agricultural or woodland use for a minimum of 5 years. Landowners who agree to place their land within a preservation district may sell development rights and easements to MALPF. Subject to some limitations, once an easement has been sold, the property is protected from further development. Passed 2003 MALPF-related bills include:

- [SB 626/HB 805](#) to provide that farm- and forest-related uses and home occupations, as determined by MALPF, may be allowed on land subject to a MALPF easement. (The bills also modify current lot exclusion policy to give landowners additional choices in the disposition of lot rights);
- [SB 564/HB 804](#) to authorize MALPF in consultation with county advisory committees to adopt new guidelines for identifying easements for purchase that advance the goals of MALPF; and
- [HB 91](#) to allow the continuation of natural gas mining in Allegany and Garrett counties on property that becomes part of a MALPF agricultural district under certain conditions.

Failed legislation would have decreased the minimum acreage requirement from 50 to 25 acres for inclusion in a MALPF agricultural district ([HB 406](#)).

A measure consolidating the State's rural capacity development programs, including the Forum for Rural Maryland and the Maryland Agricultural Education and Rural Development Assistance Fund passed this session. [SB 744/HB 1147](#) rename the Forum as the Maryland Rural Council, relocate the Council from the Department of Business and Economic Development to the Maryland Department of Agriculture (MDA), and repeal the Fund's 2004 termination date. The consolidation is

aimed at allowing rural communities to take better advantage of opportunities available through the federal Farm Security and Rural Investment Act of 2002.

Successful legislation ([SB 248/HB 344](#)), concerning the oyster industry in Maryland waters, authorizes the Potomac River Fisheries Commission (PRFC) to levy oyster repletion fees and to regulate all oyster dredging, not just dredging with handscrapes. In 1982, Virginia enacted similar legislation to expand the authority of the PRFC, but that expansion requires action by both states to become effective.

Oyster industry related measures that failed would have required the Department of Natural Resources (DNR) to establish zones for power dredging of oysters ([SB 698/HB 1159](#)), and to conduct the study of nonnative oysters, authorized last year, concurrently with the National Academy of Sciences review ([SB 475/HB 820](#)).

[HB 65](#) failed in the Senate. The proposal would have required fishery management conservation plans and fishery management measures to achieve sustainable use of the fishery, to the extent this was possible.

Winning approval, [HB 420](#) increases the annual registration fee for pesticide products distributed in Maryland and increases the terminal registration fee for discontinued pesticide products. In each case, the fees rise from \$60 to \$100. The legislation also reduces, from \$100,000 to \$75,000, the maximum amount of unexpended funds from pesticide registration fees that may carry over at the end of a fiscal year without reverting to the State's General Fund.

The legislature did not approve requiring criminal records checks on applicants for certification as pesticide applicators or those applying for permits to sell or distribute restricted-use pesticides ([SB 540](#)). Also failing was legislation to establish a pesticide advisory council to address long-term problems and issues, including homeland security, relating to pesticide manufacturing, transporting, storage, use, and disposal ([HB 503](#)).

The General Assembly considered, but did not pass, livestock-related legislation that would have:

- created an Advisory Council on Maryland's Equine Economy to develop a plan to revitalize the equine economy to premier national status ([HB 1149](#));
- prohibited close confinement of a pregnant sow, for all or a majority of any day, except during the period

before the expected date of birth, during feeding or transporting, or for veterinary treatment ([SB 271/HB 755](#)); and

- placed the regulation of domesticated deer under the MDA as livestock and ended regulation of domesticated reindeer as wildlife by DNR ([HB 475](#)).

The Senate did not complete work on the House proposal altering the Water Quality Improvement Act (WQIA) of 1998. [HB 1058](#) would have suspended, from June 1, 2003 through March 31, 2004, the penalty provisions of the WQIA and repealed the requirement that a nutrient management plan grant a right of entry to MDA. A similar bill made it to the Senate floor, but was returned to committee ([SB 617](#)).

COURTS AND CIVIL PROCEEDINGS

[SB 4](#) and [HB 18](#), identical bills that gained final legislative approval, increase the maximum amount of small claims suits in District Court from \$2,500 to \$5,000 and grant concurrent jurisdiction to the District Court and circuit court over civil cases where the amount in controversy exceeds \$5,000. The legislation also increases from \$1,000 to \$2,500 the amount in District Court civil actions below which there are no formal pleadings and increases from \$2,500 to \$5,000 the amount above which an appeal must be heard based on the District Court record rather than *de novo*.

[SB 68](#) (passed) allows a person who was sexually abused as a child to file a civil suit against the abuser at any time before the victim's 25th birthday, a 4-year extension of the current statute of limitations.

Failed proposals include:

- [SB 6](#), [SB 35/HB 120](#), and [SB 88](#), which would have provided for approval or rejection of appointment of circuit court judges via a "retention" election and a 10 year term of office following election, replacing the current constitutional provisions for "contested" elections and 15 year tenure;
- [SB 211](#), which would have required a judge to excuse from jury duty mothers who are breast-feeding a child younger than 2; and
- [HB 113](#), which would have granted immunity from civil liability to a defendant in a "strategic lawsuit against public participation" (SLAPP suit), and

would have allowed the defendant to move to dismiss the SLAPP suit or to stay all court proceedings until the matter about which the defendant communicated is resolved.

CRIMINAL MATTERS AND CORRECTIONS

The legislature approved a modified [SB 569](#) that authorizes the Board of Public Works to grant a “reasonable amount” for any financial or other appropriate counseling for a person who was erroneously convicted and confined for a crime the person did not commit. To be eligible for the grant, the person must have received a full pardon from the Governor stating that the conviction had been shown conclusively to be in error.

The list of crimes for which a prosecutor may not use evidence relating to a victim’s reputation for chastity or abstinence is expanded under the provisions of [SB 453/HB 196](#) (passed).

[SB 363/HB 575](#) (passed) amend current provisions of law governing DNA collection, testing, and preservation in criminal cases. The bills extend the collection of DNA to persons convicted of a felony or certain burglary misdemeanors, and require the continuation of a DNA technology fund and the continued preservation of DNA evidence for postconviction review for the length of the sentence imposed. If adequate funds are appropriated for the purpose, an individual convicted of a felony or certain burglary misdemeanors must submit to the collection of DNA sample upon intake for imprisonment or as a condition of probation. Among other provisions, the bills alter provisions of law relating to post conviction review of DNA evidence and the preservation and disposition of scientific identification evidence.

[HB 233](#) (passed) allows the extension of a criminal’s probation period for an additional 5 years in the circuit court or an additional 3 years in the District Court, without the criminal’s written consent, if the extension is only for making restitution. The court may grant an even longer extension for making restitution if the defendant consents in writing.

Bills failed that would have expanded the State’s Attorney screening requirements for applications filed by citizens in the District Court alleging any offense, except actual or threatened physical injury ([SB 237/HB 295](#)).

Although death penalty issues received considerable attention this session, all proposed legislation dealing with the topic was unsuccessful, including bills:

- to institute a death penalty moratorium until July 1, 2005, create a commission to review various studies on capital punishment, and issue recommendations designed to guarantee that the application and administration of the death penalty in Maryland is free from bias and error ([SB 12](#));
- to abolish the death penalty and bar future executions ([SB 544](#));
- to require the State to seek capital murder charges in every 1st degree murder case that meets the requirements, except when the victim’s family objects (“Dawn’s Law” - [SB 172](#));
- to require a stricter standard of proof for determining whether to impose the death penalty, from “preponderance of the evidence” to “beyond a reasonable doubt” ([SB 53](#));
- to require the Court of Appeals, in its consideration of a death sentence, to determine whether the imposition of the death sentence is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant ([SB 350](#));
- to exclude a conviction of 1st degree murder committed during the perpetration of specified felonies from consideration of the death penalty, and to remove felony murder from the list of aggravating circumstances to be considered in imposing the death penalty ([SB 572](#)); and
- to add to the list of aggravating circumstances that a court or jury must consider before a defendant can be sentenced to death: murder of an officer while not on duty, but in retaliation for actions the officer took while on duty ([HB 74](#)), and the commission of 3 or more 1st degree murders within a 4-year period of time ([HB 835](#)) or within a 3-year period of time ([SB 378/HB 789](#)).

Gun control was also a topic of vigorous legislative debate. Nevertheless, a variety of gun control measures failed to make it to the Governor’s desk:

- [SB 389/HB 858](#) (the Governor’s “Project Exile” bills) would have subjected any felon who possesses

any kind of firearm, not just a handgun, to a 5-year mandatory minimum sentence, with no possibility of parole; would have prohibited a 3-judge panel from being able to reduce such sentences, as they now can; and would have required a judge, rather than a district court commissioner, to decide the pretrial release or detention status of a felon who possessed a gun. (Similar bills [SB 280/HB 127](#) and [SB 323](#) also failed);

- [SB 494](#) and [HB 844](#) would have strengthened the law banning assault weapons;
- [SB 208/HB 696](#) would have expanded the current ballistic fingerprinting requirements for handguns to apply to all new firearms; and
- [SB 528](#) and [HB 836](#) would have required the owner of a lost or stolen firearm to report the loss or theft to the State Police within 48 hours of discovery.

Bills that would have weakened current gun control laws also failed:

- [HB 579](#) would have repealed the current ballistic fingerprinting requirements for handguns; and
- [HB 583](#) would have repealed the requirements for external safety locks or integrated mechanical safety devices for handguns.

A number of proposals passed to create or alter various crimes and penalties:

- [SB 135/HB 598](#) increase the maximum fine from \$5,000 to \$25,000 for felony identity fraud, which occurs when the value of the thing obtained through the identity fraud scheme is \$500 or greater, or when the intent is to manufacture, distribute, or dispense another individual's personal identifying information without the person's consent;
- [SB 282/HB 49](#) subject drivers not paying for gas after dispensing it into their car's fuel tank to the suspension of their drivers' license for up to 30 days for a first offense and a mandatory 30-day suspension for subsequent offenses;
- [SB 133/HB 588](#) establish the crimes of 1st degree child abuse, with a maximum penalty of 25 years in jail or 30 years if the abuse results in the child's death, and 2nd degree child abuse, with a maximum penalty of 15 years. The maximum penalty for child

sexual abuse is increased from 15 years to 25 years in jail; and

- [SB 352/HB 593](#) change the standard required for a conviction for stalking from proving the defendant intended to place the victim in fear, to proving a reasonable person would think the behavior would cause fear ("reasonable person standard"). The legislation also expands the acts included in the crime to include approaching or pursuing a person to cause not only fear of serious bodily injury or death, but also fear of assault, rape or sexual offenses, or false imprisonment.

Unsuccessful legislation included:

- [HB 730](#) that would have established the crime of fraud committed through Internet auction services;
- [HB 322](#) that would have expanded Maryland's hate crime law to apply to interference with or injury to individuals or individuals' property because of their sexual orientation;
- [SB 369](#) and [HB 68](#) that would have created the new felony crime of assault on a law enforcement officer in the 2nd degree;
- [SB 596](#) that would have changed from a misdemeanor to a felony the crime of visual surveillance, with prurient intent and without consent, of a person in a private place and the crime of using a camera for deliberate surreptitious observation of a person inside a private residence;
- [SB 409](#) that would have made it a felony to seduce or entice a minor, or someone believed to be a minor, via computer, telephone, the Internet, or other electronic communication, with the intent to commit 2nd degree rape or a 2nd or 3rd degree sexual offense, and to take an overt action to those ends; and
- [HB 661](#) that would have hindered access to illegal child pornography on the Web by requiring police, after receiving information that child pornography resides on the server of a Maryland Internet service provider (ISP), to request the ISP remove the alleged pornography from its server within 5 days. Failure to comply could have resulted in a court order requiring compliance under certain conditions. The ISP would also have been required to report to the State Police the location of child pornography that resides on its server and is located in the State.

Anti-terrorism measures that failed to pass include:

- [HB 643](#) that would have made it a felony to harbor a terrorist or to commit, or attempt, conspire, or threaten to commit, an act of terrorism, defined as a list of specific acts committed with the intent to intimidate, coerce, or instill fear in a civilian population;
- [HB 539](#) that would have added to existing anti-terrorism laws a prohibition against hoax attacks involving materials that appear to be toxic; and
- [HB 796](#) that would have required owners and operators of hazardous material facilities to upgrade their security measures and would have established a Task Force on the Security of Hazardous Materials to make recommendations regarding hazardous materials security at rail lines, rail yards, and other storage facilities and transportation routes.

Proposals to get nonviolent drug offenders out of jail and into treatment failed:

- [HB 580](#) would have doubled the State tax on alcoholic beverages to pay for substance abuse treatment programs that would serve as alternatives to incarceration for drug offenders;
- [HB 581](#) would have repealed mandatory minimum sentences for subsequent offenders of felony controlled dangerous substances crimes;
- [HB 582](#) would have released on parole prisoners convicted of a nonviolent crime or a substance addiction-related parole violation who have no prior convictions for a violent crime and who have a verified substance addiction, for participation in a supervised drug treatment program; and
- [HB 110](#) would have granted offenders who were convicted of manufacturing, distributing, dispensing, or possessing a controlled dangerous substance an increase from 5 to 10 diminution (“good conduct”) credits per month, excluding volume drug dealers, drug kingpins, and 3rd or 4th time narcotic or hallucinatory drug offenders.

ECONOMIC, BUSINESS, AND CONSUMER ISSUES

On April 8, the Governor signed [HB 201](#)/Chapter 36 requiring a holder of property subject to the abandoned property law to provide written notice, within a certain time frame and before filing a required report, to the property owner, informing the owner that the holder is in possession of the property and that the property will be considered abandoned unless the owner responds within 30 days.

Attaining final passage before *sine die*, but not yet signed into law are:

- [SB 618/HB 620](#) that alters the purposes of community legacy projects by including the financing of neighborhood intervention projects to rehabilitate, demolish, reconstruct, or reuse properties located in stable neighborhoods, but limits the amount of financial assistance that may be awarded for neighborhood intervention projects to \$500,000;
- [HB 888](#) that establishes the Maryland Military Installation Strategic Planning Council to promote a focused effort to retain and protect the State’s existing federal military installations;
- [SB 339/HB 640](#) that prohibit a person from providing debt management services to certain consumers unless the person is licensed by the Commissioner of Financial Regulation or is exempt from licensing under the Act; and
- [SB 487/HB 697](#) that create a Task Force on Broadband Communications Deployment in Underserved Rural Areas. Senate and House versions differ in the composition of task force members, but both bills charge the task force with evaluating the State’s resources, infrastructure, and cost structures for developing or accessing broadband communications in rural areas.

EDUCATION

Only one of the Charter School bills gained passage. [SB 75](#), the Public School Charter Act, establishes county boards of education as the primary chartering authorities with the State Board of Education as the secondary chartering authority in an appeal review capacity. An application to establish a public charter school may be

submitted by the staff of a public school, a parent or guardian of a student who attends a public school in the county, a nonsectarian nonprofit entity, a nonsectarian institution of higher education in the State, or any combination of these. Currently, local boards of education have the authority to establish public charter schools, but there is no State enabling statute. Charter school bills that failed to pass were [SB 388](#), [HB 859](#), [HB 11](#), and [SB 5](#).

Passed legislation related to K-12 educational issues included:

- [SB 32](#) requiring a county superintendent to allow a student whose parent or guardian resides in another school district to attend the local school system, if the student is living with a relative within the school district due to a serious family hardship. (The student's relatives must be providing informal kinship care to the student);
- [SB 558/HB 873](#) establishing a Study Commission on Educators' Time and Paperwork to conduct a survey and collect information relating to the issue of workload, administrative and bureaucratic tasks, and other intrusions on time that detract from the quality of teaching and learning;
- [HB 307](#) altering the definition of gifted and talented students to conform to federal standards;
- [HB 868](#) repealing the prohibition on pagers on public school property in Baltimore City, Caroline, Dorchester, Somerset, Talbot, Wicomico, and Worcester Counties where the prohibition is currently in force, and declaring that the intent is for local school systems to work with the Maryland Department of Education to develop their own policies;
- [HB 358](#) altering the length of time a school bus may be operated in Somerset, Wicomico, and Worcester Counties from 12 to 15 years if the bus meets applicable safety standards; and
- [HB 1042](#) establishing a Task Force to Study the Availability of Audiology and Speech-Language Services for K-12.

Another passed bill ([SB 2](#)) alters a condition for receiving a State grant under the public school solar energy pilot program by requiring that solar energy meet some of the school's electrical energy needs, instead of a

certain percentage of them. The bill also extends funding eligibility to existing public schools that intend to install a solar energy system as an independent project that is not a part of an approved school construction or renovation project.

A bill related to aging schools also passed. [SB 498](#) repeals the termination date on the Aging Schools Program and continues the distribution of \$10.3 million in funding to local school systems beyond fiscal 2004. The special State funding arrangement for school construction projects in Baltimore City is extended through fiscal 2005.

The General Assembly also agreed to allow an individual to obtain a high school diploma if he withdrew from a regular full-time public or private high school to enlist in the armed forces during World War II or the Korean Conflict ([SB 56](#)).

Successful bills related to higher education included [HB 253](#) that exempts an immigrant student from paying nonresident tuition at an institution of higher education in the State if the immigrant student meets certain criteria and files an affidavit stating the student will apply for permanent resident status. The bill also provides exemptions from nonresident tuition at a public institution of higher education to an active member, the spouse of an active duty member, the financially dependent child of an active duty member, or an honorably discharged veteran, of the U.S. armed forces.

[SB 499/HB 30](#) (passed) changes the name of the Maryland Higher Education Investment Board to the College Savings Plans of Maryland Board and establishes the title of College Savings Plans of Maryland for the 2 programs that are administered by the Board.

However, the legislature did not pass [HB 45](#) that would have prohibited State colleges and universities from establishing new programs until the Secretary of the Higher Education Commission determines that 50% or more of the State's teaching, nursing, or pharmacy workforce graduated from an institution in the State.

[SB 555](#) (failed) would have reduced aid to nonpublic institutions of higher education by altering the method of calculating the full-time equivalent student count that is used to determine aid under the current Joseph A. Sellinger formula.

The General Assembly did not pass legislation related to home-schooled students:

- [HB 718](#) would have established a Task Force to Study Extracurricular Activities at Public Schools for Home School and Private School Students; and
- [HB 218](#) and [HB 578](#) would have authorized public schools to allow home-schooled students to participate in extracurricular activities.

Though given consideration, failed measures related to teachers included:

- [SB 151/HB 153](#) that would have established a Resident Teacher Corps Pilot Program as an alternative route to the teaching profession and as a method for attracting career-changers to teaching; and
- [SB 291](#) that would have altered the eligibility criteria for receiving a Maryland Teacher Scholarship to include students who pledged to work at a nonpublic elementary or secondary school after graduation.

Measures addressing increased commercialism in schools also were considered, but were unsuccessful. [SB 395](#) would have required local boards of education to limit commercialism in public schools by prohibiting or limiting commercial advertisements. [SB 396](#) would have required local boards of education to submit to the Maryland State Department of Education policies that encourage a reduction in student consumption of foods of minimal nutritional value.

A number of other bills were considered, but did not gain final support. These included:

- [HB 1166](#) that would have nullified the current requirement that high school students pass the Maryland Functional Tests in order to graduate;
- [HB 1167](#) that would have required public school textbooks and other instructional resources to conform to federal No Child Left Behind Act requirements;
- [HB 1168](#) that would have prohibited any public or private entity from measuring the personal or family attitudes, values, or beliefs of a public school student through a State mandated testing and measurement program or a survey;

- [HB 1169](#) that would have required a local school system to obtain informed written consent from the parent or guardian of a student who wished to enroll in a sex education course;
- [HB 687](#) that would have called for a 2-year moratorium on the suspension of elementary students in public schools starting in the fall of 2003;
- [SB 620](#) that would have abolished student service as a requirement for graduation from Maryland public schools; and
- [HB 345](#) that would have required county boards of education to set up a policy to prevent harassment and intimidation of students at public schools, at school activities, or on school buses.

Resolutions that failed included [SJ 5](#) and [HJ 13](#) that would have urged Boards of Education to develop and institute a Celebrate Freedom Week Curriculum during the month of September. A Senate resolution ([SJ 12](#)) failed that would have urged the governing bodies of Baltimore City, the State of Maryland, and the United States to declare the Baltimore school system in a state of emergency and would have asked those governing bodies to provide financial aid to alleviate the conditions that led the school system to this condition.

ELECTIONS

A conference committee could not reconcile the differences between [HB 323](#) and its Senate amendments so the legislation failed. It would have changed the election dates for Baltimore's mayor and City Council to coincide with presidential races beginning in 2004 or with the gubernatorial race in 2006.

Among bills that passed are [HB 191](#) that increases the registration fee for certain regulated lobbyists from \$20 to \$50 and requires that any unused balance in the Lobbyist Registration Fund at the end of a fiscal year revert to the State's General Fund, and [SB 244](#) that alters certain State Board of Elections deadlines and procedures relating to presidential or vice presidential nominees.

To comply with the federal "Help America Vote Act of 2002," the General Assembly also passed [SB 432](#) and related [HB 1061](#), which establish a Maryland Election Modernization Fund for programs pertaining to the federal law and related expenditures.

At his first bill signing, the Governor signed [SB 313](#)/Chapter 22. Under the new law, a political party must notify the State Board of Elections at least 6 months before a primary election if the party will allow voters not affiliated with the party to vote in its primary election.

ENVIRONMENTAL MATTERS

Changes to Maryland Department of Environment's (MDE) Voluntary Cleanup Program (VCP) portion of the Brownfields initiative passed during the 2003 session. Among the provisions of [HB 1051](#) are:

- an exemption of certain property owners and operators from the definition of a "responsible person" under the Controlled Hazardous Substances Law;
- a reduction of the application fee for participation in VCP under certain conditions;
- a determination by MDE that it has no further requirements under VCP is transferable to subsequent purchasers under specified conditions; and
- a stipulation that, if a determination is dependent on certain uses or conditions, the determination must be recorded in the land records of the local jurisdiction or the determination is void.

The bill also establishes an Environmental Restoration and Development Task Force to review changes in federal law relating to Brownfields and to examine the consequences of expanding the program and liability protections.

Legislation amending current penalty provisions related to asbestos removal violations earned legislative approval. [SB 95](#) removes the requirement that a civil penalty for an asbestos removal violation must have been previously assessed before a criminal sanction can apply. The imprisonment option for a first offense was deleted from the bill, but the \$20,000 maximum fine provision remains.

In an effort to assure the safe operation of the 2 hazardous liquid pipelines in Maryland, the General Assembly passed [HB 794](#) that enhances the reporting requirements and inspection guidelines for the pipelines.

The legislation requires the Public Service Commission (PSC), in collaboration with the American Society of Mechanical Engineers, to establish and adopt methods and best practices for intrastate pipeline facilities used for the transportation of hazardous liquids. Also, the PSC must employ an engineer specializing in the storage and transportation of hazardous liquid materials by pipeline.

Companion proposals making changes in noise and pollution control efforts also passed. [SB 320/HB 174](#) encourage local governments to consider compliance with State or local noise standards before acting on variance requests or changes in zoning. The bills also alter membership criteria and increase the number of members of the Environmental Noise Advisory Council and the Interagency Noise Control Committee. They require MDE to submit proposed revisions in noise regulations to the Council, to conduct public hearings, and to provide technical input on the revisions.

Receiving final approval, [SB 393/HB 715](#) expand existing criminal and civil penalties for violations of certain sediment and erosion control, stormwater management, and tidal wetlands and riparian rights provisions administered by MDE. Other provisions authorize the courts to order restoration of areas unlawfully disturbed.

A Radium Pilot Grant Program won approval. [HB 39](#) allows a county to participate in assisting residential well owners with the costs of treatment systems for radium or gross alpha-contaminated wells. The program is slated to remain in effect for 3 years to be implemented by the Department of Housing and Community Development, subject to the availability of funding.

The General Assembly passed [HB 659](#) that establishes the Task Force on Water Resource Management to review assessments of the quality and quantity of the management and protection of water resources. The task force will also review the results of research on climate change and its impacts on aquifers and make recommendations to assure that the management and protection of the State's ground and surface water resources are consistent with sustainable use and protection of the water resources.

If signed by the Governor, minimum energy efficiency standards will be established for 9 household and commercial products sold in Maryland after March 1, 2005, or installed in Maryland after January 1, 2006 under the provisions of [SB 394/HB 747](#). Minimum

energy efficiency standards will apply to torchiere lights, unit heaters, traffic lights, some types of low-voltage transformers, ceiling fans, illuminated exit signs, large packaged air-conditioning equipment, and some commercial refrigeration cabinets. Ceiling fan light kits and commercial clothes washers would not have to meet the standards until 2007 and 2008.

The legislature also approved expanding financial and technical assistance to include nonprofit organizations that participate in the Urban and Community Forest Program or the Green Shores Program ([HB 907](#)). Current assistance, from the Department of Natural Resources (DNR), is limited to local governments and State agencies that participate in these programs that promote the retention and maintenance of forests and trees in urban and community areas and promote forested buffers around the Chesapeake Bay.

Winning passage, [HB 970](#) establishes a Commission on Environmental Justice and Sustainable Communities within MDE to, among other things, advise State agencies on environmental justice and related community issues. The bill continues an existing commission established by executive order in 2001 that had a termination date of December 2003.

Efforts to control nonnative fish found in a Maryland pond last year alerted the State to a weakness in Maryland law governing nonnative species. Popularly dubbed “frankenfish,” the northern snakehead fish proved unusually resilient and a threat to native species. During this session the legislature agreed to protect aquatic ecosystems and the productivity of State waters by authorizing DNR to issue regulations that prohibit the importation, possession, or introduction of nonnative aquatic organisms into State waters. [SB 287](#) authorizes DNR to enter and inspect properties to determine if a “state of nuisance” exists. It also includes provisions relating to abatement, and establishes penalties. DNR may abate the nuisance at the expense of the person determined to have willfully or negligently caused the state of nuisance, or if that person cannot be found, the cost of abatement and any necessary repairs will be at the expense of DNR. The bill does not apply to permitted aquaculture operations.

Among measures failing to win final support were:

- [SB 474](#) that would have imposed additional requirements on DNR in the formulation of legislative or regulatory proposals, budgetary or administrative decisions, or policies;

- [SB 592](#) that would have created an Office of Indoor Air Quality within MDE;
- [HB 911](#) that would have limited the disposal of cathode ray tubes from computer monitors or televisions to locations designated by MDE.
- [HB 351](#) that would have amended the Smart Growth Areas Act to consider a “qualified distressed county” as a priority funding area; and
- [HB 1184](#) that would have increased the tire-recycling fee to \$2 per tire and distributed revenues between the State Used Tire Cleanup and Recycling Fund in MDE and the Low Interest Revolving Loan Account under the Volunteer Company Assistance Fund.

FAMILY LAW

Legislators agreed to establish within the Department of Human Resources (DHR) a child support enforcement privatization pilot program and demonstration sites to compete with the privatization sites ([SB 524/HB 564](#)). DHR is authorized to contract with a private company to perform all aspects of child support enforcement in Baltimore City and Queen Anne’s County. DHR must establish at least 4 “competing” demonstration sites by July 1, 2003 (1 each in Calvert, Howard, Montgomery, and Washington counties) and must add more each year until, by July 1, 2008, there are a total of 22. It must also establish pay incentives for employees at the demonstration sites. The provisions of the bills expire on September 30, 2009.

Cruelty of treatment and excessively vicious conduct toward a minor child of a complaining party are added as grounds for an absolute divorce under the provisions of [SB 249/HB 346](#) (passed).

The exemption for a member of the clergy from the reporting requirements for suspected child abuse or neglect would have been narrowed under [SB 412](#) (failed) to apply only when a communication about the abuse was made to the clergyman directly by the abuser in the course of a confession, and when canon law or church doctrine require confidentiality. Disclosure of the abuse by a victim or any other third party in the confessional would have required reporting the abuse.

FINANCIAL INSTITUTIONS

Passed [SB 160/HB 117](#) clarify the return of specific cancelled checks to account holders, as well as options for and format of returned cancelled check facsimiles instead of the original cancelled checks.

FISCAL MATTERS

The \$22.4 billion State Budget Bill, [HB 40](#), for fiscal 2004 has passed the General Assembly with reductions of \$264.4 million from the Governor's original proposal. As passed, the Budget Bill increases State General Fund spending by less than 1% over the 2003 fiscal year budget. The Budget Bill was balanced by reductions to the Governor's allowances, transfers to the General Fund from other funds, and by tax changes. The General Assembly did not approve revenue from slot machines to bring the Budget Bill into balance.

The Budget Bill becomes law immediately upon passage with no further action by the Governor required. This bill is the only bill, other than constitutional amendments, over which the Governor has no veto. He does have a veto over revenue-enhancing bills and bond bills.

Among the highlights of the Budget Bill as passed are:

- \$3.5 billion for public education, funding the Thornton initiative, a 6.6% increase (The Governor's Teacher Salary Grant Program was reduced by \$30.6 million, but \$3 million was provided for textbooks for nonpublic schools);
- \$3.4 billion for State universities and colleges that includes a \$5.1 million reduction for these institutions;
- \$3.5 billion for medical assistance, an 8% increase;
- \$37 million General Fund increase for mental health community services for fiscal 2004 for a total proposed appropriation of \$523.6 million plus \$60 million in deficiency appropriations for fiscal 2003;
- \$32 million increase for developmentally disabled community services for a total proposed appropriation of \$485.4 million; and
- \$3.2 billion for transportation programs.

The Maryland Constitution requires that every bond bill impose a tax to pay the incurred debt. The tax imposed is the State property tax. For a number of years the State through the Board of Public Works has not levied the property tax at the rate needed to pay the principal and interest on the State debt, using General Funds to make up the difference. This year the Budget Bill, as introduced, included property tax revenue and General Funds to make the debt payments, but the Governor in the Supplemental Budget removed the General Fund revenue and substituted additional property tax revenue and other miscellaneous revenue to provide funding for the debt payments. The Board of Public Works, with previously granted authority, will increase the State property tax to raise the necessary revenue to pay the State debt. No bill has passed the General Assembly specifically increasing the State property tax rate.

[HB 140](#), the "Maryland Consolidated Capital Bond Loan of 2003," has passed authorizing additional State debt of \$742.5 million. As passed, the bill authorizes:

- \$103.9 million for public school construction;
- \$210.2 million for construction at State universities and colleges;
- \$42.6 million for construction grants to community colleges;
- \$14.2 million for grants to private colleges and universities;
- \$111.2 million for environmental programs including Program Open Space, the Rural Legacy Program, the Agricultural Land Preservation Program, and the Community Parks and Playgrounds Program; and
- \$107.9 million for public safety facilities.

[SB 7](#) authorizes an additional \$9 million in non-interest bearing bonds for older schools called Qualified Zone Academy Bonds.

[HB 935](#), the "Budget Reconciliation and Financing Act of 2003" or BRFA, makes changes to current law to increase General Fund revenues to assist in balancing the budget for fiscal 2003 and 2004. BRFA transfers money from special funds to the General Fund, reallocates revenues to the General Fund, increases fees, reduces certain aid amounts and certain expenses, and makes tax changes. The bill transfers \$415.9 million for fiscal 2003

and \$328.7 million for fiscal 2004 from special funds to the General Fund for a total of \$744.5 million. Among the changes are a transfer for fiscal 2003 of \$29 million from the University System of Maryland, \$160 million for fiscal 2003 and \$154.9 million for fiscal 2004 from the Transportation Trust Fund to the General Fund, and \$8 million for fiscal 2003 and \$11 million for fiscal 2004 from the Waterway Improvement Fund. By December 1, 2003, the Governor must submit a plan to replace the funds transferred from the Transportation Trust Fund.

BRFA also includes tax compliance enhancements, increases the business annual report filing fee from \$100 to \$300, and caps the total commercial Maryland Heritage Structure Rehabilitation tax credits at \$23 million from February 1 through December 31, 2003, and at \$15 million for calendar year 2004.

[HB 753](#), the tax and revenues measure, raises \$135.6 million for fiscal 2004 by assessing a 2% insurance premium tax on health maintenance organizations and managed care organizations, imposing a 10% corporate income tax surcharge for 2003 through 2005, and changing corporate tax law to enhance Maryland revenue. The provision concerning a tobacco tax increase was deleted.

The following initiatives failed:

- alcoholic beverage tax increases ([HB 87](#), [HB 580](#), [SB 384](#), [SB 529](#));
- cigarette tax increases ([HB 1124](#), [SB 324](#)) and a tax increase on other tobacco products ([HB 1174](#));
- controlling interest transfer tax imposition ([SB 120/HB 19](#));
- sales tax-free week ([HB 37](#), [SB 66](#));
- personal tax increases (income tax, [HB 500](#); sales and income tax, [HB 910](#); sales tax, [HB 1053](#) and [HB 1094](#); sales tax on gasoline, [HB 1020](#); gasoline tax increase, [SB 758/HB 1163](#));
- constitutional amendments prohibiting transfers from the Transportation Trust Fund ([SB 757/HB 1157](#));
- restrictions on the Maryland Heritage Structure Rehabilitation Tax Credits ([SB 203](#) would have created a task force to study the credit, and [HB 341](#) would have terminated the credit this year rather than next);
- business taxation measures ([HB 776](#), [SB 656/HB 936](#), [SB 392](#), [SB 397](#), [SB 398](#), [HB 1048](#), and [HB 1084](#)); and
- enhancement of the Comptroller's law enforcement powers ([HB 86](#)).

HEALTH CARE AND INSURANCE

Emergency legislation ([HB 803](#)/Chapter 1 and [HB 1100](#)/Chapter 2) was signed into law this week regarding the Maryland Health Insurance Plan (MHIP), an independent unit of the Maryland Insurance Administration (MIA). MHIP's purpose is to decrease uncompensated care costs by providing access to affordable, comprehensive health benefits for medically uninsurable residents by July 1, 2003:

- Chapter 1 ([HB 803](#)) permits the MHIP board, if it determines that a standard risk rate would create market dislocation, to adjust the premium rate based on member age. Currently, the premium rate may vary only on the basis of family composition;
- Chapter 2 ([HB 1100](#)), the Health Insurance Affordability Act of 2003, makes several changes to MHIP and requires health insurance carriers who offer Medigap policies to offer them to certain eligible individuals. This legislation includes a provision that allows participation in MHIP by Bethlehem Steel retirees between the ages of 55-64 who recently lost company health insurance coverage.

Addressing the continued licensure and discipline of physicians in Maryland, [SB 500](#), as passed, extends the sunset date for the Board of Physician Quality Assurance (BPQA) from July 1, 2003 to July 1, 2007, but renames BPQA as the State Board of Physicians. The bill revises Board composition by increasing Board membership from 15 to 21 members, changing term limits from 3 to 4 years, specifying practice and specialty requirements, and imposing certain residency requirements.

The State Board of Physicians is authorized to delegate the authority to conduct disciplinary hearings to a subcommittee consisting of 3 or more Board members. However, the Board may only dismiss a case against a restricted licensee on the affirmative vote of its full-

authorized membership. [SB 500](#) also changes the vote required to initiate a charge against a licensee from an affirmative vote of the full-authorized membership of the board to a majority of its quorum and specifies that the evidentiary standard for disciplinary hearings is by a preponderance of the evidence. Notwithstanding this standard, factual findings must be supported by clear and convincing evidence for charges based on failure to meet appropriate standards for the delivery of respiratory care; or failure to meet appropriate standards for the delivery of quality radiation oncology/therapy technology care, medical radiation technology care, or nuclear medicine technology care.

The State Board must maintain a public individual profile on each licensee, which in addition to current profile requirements, contains information on the number of final medical malpractice court judgments and arbitration awards against the licensee within the most recent 10-year period; the number of medical malpractice settlements, if there are 3 or more, with a settlement amount of \$150,000 or greater within the most recent 10-year period; a description of a conviction or entry of a guilty or *nolo contendere* plea for a crime involving moral turpitude; and medical education and practice information about the licensee. The Board must also maintain a website on the Internet that serves as a single point of entry where all physician profile information is available to the public.

In response to the Maryland Insurance Commissioner's denial of CareFirst's request to convert to for-profit status, the General Assembly passed amended legislation ([SB 772/HB 1179](#)) that reaffirms the mission of nonprofit health service plans such as CareFirst to provide affordable and accessible health insurance in Maryland. The bills revamp the board of directors, limit the annual compensation of the chairman and board members, enhance the investigative authority of the Attorney General with respect to these nonprofit health service plans, and provide for the Insurance Commissioner's oversight of executive compensation. Also established is a legislatively appointed Joint Nonprofit Health Service Plan Oversight Committee.

Additionally, [SB 772/HB 1179](#) prohibit CareFirst from attempting another for-profit conversion within the next 5 years. Also incorporated in the bills are provisions similar to those in failed [SB 773](#), which require the Insurance Commissioner and Attorney General to determine whether any conduct identified in the Commissioner's rejection of the CareFirst conversion violated the State's insurance law or another provision of

federal or State law. Other unsuccessful bills related to CareFirst include [HB 150](#) and [HB 765](#).

Passed and signed legislation addressing access to prescription drug coverage includes Chapter 3 ([SB 450](#))/Chapter 4 ([HB 211](#)) that repeal the enrollment cap of 30,000 enrollees in the Short-Term Prescription Drug Subsidy Plan and permit the Plan to enroll the maximum number of individuals eligible for enrollment, subject to available funds.

Passed [SB 334/HB 143](#), not yet signed, concern the continuance, administration and funding of Medbank, a program that provides access to medically necessary prescription drugs through patient assistance programs sponsored by pharmaceutical drug manufacturers. Program administration is transferred from the Maryland Health Care Foundation to Medbank of Maryland, Inc. and funding is to be provided through a grant from the Department of Health and Mental Hygiene.

The Small Business Health Insurance Affordability Act ([SB 477](#)), as amended and passed, changes certain provisions relating to the Comprehensive Standard Health Benefit Plan (CSHBP) that an insurer, nonprofit health service plan, or HMO (carrier) must offer to small businesses. A component of the bill is the reduction of the premium rate affordability cap for the standard plan from 12% to 10% of the average annual wage in Maryland. The Maryland Health Care Commission is tasked to report on the methodology it uses to develop the CSHBP and the feasibility of creating a Basic Plan in addition to the CSHBP, the only plan currently available to the small group market.

The General Assembly also passed [SB 283/HB 294](#) that prohibit a person from bringing a private civil action under the Maryland Consumer Protection Act for injuries sustained as a result of the professional services provided by a "health care provider." Under the bill, a health care provider includes a hospital or certain related institutions, a physician, an osteopath, an optometrist, a chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a psychologist, a licensed certified clinical social worker, and a licensed or authorized physical therapist.

Mental health care services legislation receiving favorable final action this session includes:

- [SB 252/HB 25](#) (passed) to create a Task Force to Study Access to Mental Health Services to study mental health parity requirements, systemic barriers

to accessing community treatment, access to medically necessary mental health treatment, difference in services coverage provided by the public mental health system, commercial health insurers, and commercial health maintenance organizations, the structure and effectiveness of the public and private mental health care delivery systems in the State, and the impact on the cost of health care coverage of any recommended changes;

- [HB 433](#) (passed) to create a Task Force on the Needs of Persons with Co-Occurring Mental Illness and Substance Abuse Disorders to identify and recommend ways to provide and deliver services to the population with co-occurring mental illness and substance abuse disorders, the methods of funding the services, the number of units needed for residential services, and the cross-training for mental illness and addiction counselors;
- [SB 273/HB 668](#) (passed) to modify requirements for petitions for emergency evaluations of individuals with mental disorders to facilitate the commitment of those who pose a danger to themselves or others; and
- [SB 209/HB 675](#) (passed) to require Medicaid to reimburse outpatient mental health care providers the entire amount of the Medicaid program fee for outpatient mental health treatment given to an individual eligible for both Medicare and Medicaid, including any amount ordinarily withheld as a psychiatric exclusion and any copayment not covered under Medicare. The funds for this reimbursement are to come from reprioritizing existing grant funds.

Mental health care legislation that failed this session ([SB 91/HB 130](#)) would have required the Department of Health and Mental Hygiene (DHMH) to adjust the fees paid to community health services providers annually. The rate of change was to be based on the medical component of the Consumer Price Index for the Washington-Baltimore metropolitan area. Similar measures in prior sessions failed to pass.

Funding for uncompensated trauma care was given the green light. [SB 479](#), as passed, adds a \$2.50 per year surcharge on motor vehicle registration that will be designated to go to the Maryland Trauma Physician Services Fund. The fund will be administered by the Maryland Health Care Commission (MHCC) and the Health Services Cost Review Commission to reimburse

trauma care physicians, as well as trauma centers for their costs to provide on-call physicians. The bill also establishes a Joint Legislative Committee to study and make recommendations about the structure and funding of the State's emergency medical response system.

Failed measures related to uncompensated trauma care included [HB 1](#) that would have established a \$10 surcharge for the issuance or renewal of a drivers' license and [SB 587](#) that would have required a \$4 surcharge on each motor vehicle insurance policy to pay for the reimbursement fund, and would have assigned the duties of administering the fund to the Maryland Institute for Emergency Medical Services Systems (MIEMSS).

The Darrell Putman Compassionate Use Act legislation ([HB 702](#)) has passed and awaits the Governor's signature. The bill allows evidence of medical necessity to be introduced as a mitigating factor for those being prosecuted for the use or possession of marijuana. The maximum penalty is a fine not exceeding \$100.

Other health legislation that won final approval this session includes:

- [SB 223](#), granting a mother the right to breast-feed her child in any public or private location and prohibits restrictions on breast-feeding;
- [SB 732](#), prohibiting the MHCC from granting a statewide certificate of need (CON) for hospice care programs. As amended, DHMH must specify the authorized jurisdictions for home-based hospice services by a general hospice provider. The legislation seeks to protect small, locally-operated hospices from competition from large firms; and
- [HB 149](#), Vera's Law, allowing electronic monitoring of residents at an institution such as a nursing home with permission from residents or their representatives and, as amended, requires guidelines to be established.

Other nursing home related legislation did not gain approval this session. [SB 77](#) would have required DHMH to provide a written notice to residents or their families when violations and disciplinary action against the facility have adversely affected the care and treatment of residents. [HB 1097](#), while similar to Vera's Law ([HB 149](#)), would have required the nursing home itself to install the monitoring devices at the residents' request. [SB 690/HB 830](#) would have established the

Maryland Quality Home Care Services Commission to improve the quality of personal home care services through regulation, increased accountability and enhanced consumer ability to obtain home care services.

The regulation of crematories also failed to pass again this session. [SB 484/HB 756](#) would have required the State Board of Morticians to regulate and license operators of crematories. Currently, cremation services provided by cemeteries are not regulated. Another bill, [HB 13](#), would have provided for regulation of crematories by either the Board or the Office of Cemetery Oversight.

Withdrawn from their respective committees, [SB 457/HB 772](#) would have prohibited a physician from performing an abortion on a minor, unless a notice is given to a parent/guardian, or it is a medical emergency, or a court orders a waiver to the notice requirement. Similar legislation in past sessions also failed to move out of committee. The House passed legislation, [HB 615](#), authorizing pharmacists to dispense emergency contraception if the licensed pharmacist has an approved arrangement with a physician, but the bill was killed by a Senate committee. The same committee voted unfavorably on the companion bill ([SB 354](#)).

Bills related to cardiac services have died again this session. [SB 337/HB 236](#), withdrawn from their respective committees, would have removed the certificate of need (CON) requirement from the licensing of open-heart surgery programs by DHMH. [HB 828](#), voted down in committee, would have expanded the number of hospitals that provide open-heart surgery, but instead of removing the CON, the bill would have changed the requirements for approval of a certificate by the Maryland Health Care Commission.

Other health related legislation that failed included:

- [SB 48/HB 60](#), related to the dispensing of controlled dangerous substances, would have required pharmacists, physicians, and other health care providers who are licensed as dispensers with the Board of Pharmacy to report to DHMH in an electronic format. DHMH would then have established an electronic monitoring program to impede the illegal diversion of prescription drugs. (Similar legislation failed last session);
- [HB 121](#) would have required first-time enrollees in higher education institutions to obtain a vaccination for hepatitis B. (If a waiver was signed by the

student or student's parent or guardian if the student is a minor, the student would be exempt from the requirement. Similar legislation failed last session);

- [HB 441](#) would have expanded the authority of optometrists to issue prescriptions for certain medications and to treat certain eye diseases without having to consult with an ophthalmologist;
- [HB 509](#) would have established a State Advisory Council on Obesity in Youth; and
- [SB 261/HB 771](#), the Clean Indoor Air Act of 2003, would have banned smoking in indoor areas open to the public and places of employment.

HOUSING

Legislation relating to the Reduction of Lead Risk in Housing Program within the Maryland Department of the Environment (MDE) was introduced again this session. [HB 722](#) (passed) requires a local government agency to report to MDE any known property that is noncompliant with the Program. The other bills received unfavorable votes, including:

- [HB 589](#) that would have exempted outside surfaces of an affected property from the Program's risk reduction standards, if the owner submits an inspection report to MDE that complies with specified requirements. (Similar legislation stalled last session);
- [HB 714](#) that would have extended the existing rental subsidy under a "qualified offer" with respect to the Program to owner-occupied dwellings purchased by a tenant who is permanently relocated. The subsidy would have covered the difference between the rent paid and the mortgage payment as well as closing costs. (Similar legislation failed in previous sessions);
- [HB 720](#) that would have required a landlord to include in a written complaint a statement that the requirements of the Housing Program have been satisfied when repossessing property;
- [HB 872](#) that would have required a landlord to provide a statement on a lease agreement that the affected property is in compliance with the Program, to provide a certified inspection report upon request, and to provide a statement in a written complaint for

repossession by the landlord that the property is in compliance with the Program; and

- [HB 1146](#) that would have made several definitional changes to the Program. The changes would have exempted single-family dwelling units from regulation, certain painted surfaces and areas from lead reduction requirements, repealed MDE's authority to establish standards in statute, provided waivers during winter months, and exempted owners of affected properties that have been certified by an inspector from the requirement to provide notice to tenants.

from reducing the black bear population in any area of the State until July 1, 2009; and

- [HJ 3](#) that would have urged the owners of the Ravens professional football franchise to change the name of the Ravens stadium to the Johnny Unitas Stadium.

Authorization of slot machines (technically called video lottery terminals) dominated much of the 2003 session agenda. The Governor contended that anticipated slot revenue should be used to balance the budget shortfall for the upcoming fiscal year and the years following. Some legislators agreed and some did not. As different bills were introduced, areas of contention included how much revenue could be expected and when, how the revenue should be distributed among the track owners, the State, and local jurisdictions, whether authorization of slots was necessary in fiscal 2004 before further study, and whether a slot machine revenue initiative was appropriate public policy.

SPORTS AND GAMING

The General Assembly agreed to:

- decrease the minimum distance, from 800 yards to 400 yards, that a person must be from the shore when hunting wild waterfowl in the Susquehanna Flats while standing in the water on the natural bottom or hunting from a drifting boat, from a boat that is being sculled, or from an anchored boat ([HB 954](#)); and
- allow deer hunting on private property on the first Sunday of the bow hunting season in November and on the first Sunday of the deer firearms season, except in Anne Arundel, Baltimore, Carroll, Frederick, Harford, Howard, Montgomery, Prince George's, Somerset, Wicomico, and Worcester Counties, in a portion of Frederick County, and in Baltimore City and the City of Frederick ([HB 679](#)).

Failing to pass were:

- [SB 104](#) that would have repealed the master hunting guide license within DNR and established 2 licenses in its place;
- [HB 337](#) that would have lengthened the deer firearms season to 21 days;
- [HB 746](#) that would have required the Department of Health and Mental Hygiene to adopt regulations for youth baseball that designate the types of approved baseball gear;
- [HB 629](#) that would have prohibited DNR from establishing an open season to hunt black bears and

The Governor's proposal ([SB 322/HB 359](#)) would have authorized video lottery terminals at 4 Maryland racetracks, with 3,000 slots each at Pimlico, Laurel, and Rosecroft and 1,500 at a future Allegany County track, bringing the statewide total to 10,500 machines. Other provisions would have established an Education Trust Fund to receive about 64% of the proceeds, allocated \$500,000 each year for gambling addiction programs, and provided a portion of the proceeds to local jurisdictions where the racetracks are located.

As the session progressed, the Governor announced revisions to his proposal. The new amendments would have allowed 4 tracks to operate 10,500 slots, but would have divided the allocations differently. Out of the expected gross revenue of about \$1.5 billion, the share allotted to education was reduced and the share to the owners was increased. The license fees paid to the State were also reduced, but the share to local governments where tracks are located was higher.

Finally, the Senate passed a heavily amended [SB 322](#) that would have provided 10,500 slot machines, 3,500 each at Pimlico, Laurel, and Rosecroft and 1,000 at a future Allegany racetrack. The slot machines would be owned or leased by the State Lottery Commission and under the control of the Commission. From the gross proceeds, after payout to players, the Comptroller would have been required to pay 46% of the gross to the Education Trust Fund, 5% to the State Lottery Agency, 39% to the video operation licensees, 4.75% to local

governments in which a video lottery facility was operating, and 5.25% to the purse dedication account to enhance horse racing purses. In addition, the bill assessed a \$390 fee per video lottery terminal to be placed into a Compulsive Gambling Fund. During the last full week of the 2003 session, a House committee rejected the Senate's amended bill.

On the House side, earlier in the session, Delegates amended and passed [HB 800](#) that would have created a Commission to Study Video Lottery Terminals in Maryland, but no action was taken by the Senate on the measure. Ultimately, after extensive public hearings on all of the bills dealing with slots, none survived the final gavel and, consequently, the General Assembly did not incorporate any slot revenues in the fiscal 2004 State Budget Bill.

In addition to the Governor's original proposals ([SB 322/HB 359](#)), the Senate's heavily amended version ([SB 322](#)) and the House's study legislation ([HB 800](#)), other bills (all failed) that would have authorized slot machines in Maryland or addressed related issues included:

- [SB 446](#) that would have authorized the operation of 12,500 slots regulated by the State Lottery Commission, and required distribution of 5% of the proceeds to local governments within a 5-mile radius of gambling sites;
- [SB 699/HB 78](#) that would have authorized a total of 10,000 slots at up to 4 locations, provided for 1 time license fees, created the Education Trust Fund, and prohibited the adoption of any laws authorizing any additional forms of gaming;
- [SB 697/HB 1014](#) that would have provided for the transfer of the name of the Preakness Stakes, copyrights, trademarks, service marks, and trade names associated with the Preakness Stakes and the trophy known as the Woodlawn Vase to the State if any form of gaming, other than pari-mutuel betting, was authorized for Pimlico Race Course;
- [SB 452/HB 491](#) that would have addressed the distribution of the proceeds from slots, in part, by establishing a Host Community Gaming Benefits Authority and a special fund for each gaming benefits district, which covers the area within 1 mile of a gaming venue;
- [SB 708](#) that would have required a county or city that receives distributions from the operation of slots to distribute 50% of the revenue to a nonprofit organization located within 1 mile of the slot facility;
- [HB 105](#) that would have prohibited anyone involved in the gaming industry from contributing to Maryland's political campaigns;
- [HB 329](#) that would have created a Commission to Study Video Lottery Terminals in Maryland;
- [HB 1122](#) that would have required that, before an owner of a video lottery facility offers slot machines for public use, a special election be held in the county in which the facility is to be located;
- [HB 890](#), a constitutional amendment, that would have authorized slots regulated by the State Lottery Commission, at up to 6 destination tourist locations;
- [HB 1103](#), a constitutional amendment, that would have prohibited the General Assembly from authorizing any expanded or additional locations for video lottery or casino-style gaming; and
- [HJ 15](#) that would have urged the Governor to negotiate a revenue sharing agreement with each neighboring state with gaming facilities based partly on the number of Maryland visitors to those facilities.

STATE GOVERNMENT

Near the end of session, over 100 members of the House of Delegates sponsored House Resolution 1 (HS 1) recognizing, honoring, and expressing appreciation for the longest serving Speaker of the Maryland House of Delegates, Casper R. Taylor, Jr., who was elected to the House of Delegates in 1975 and served as Speaker of the House from 1994 until January 2003. The resolution requests that the Board of Public Works designate the soon to be constructed new portion of the House of Delegates Office Building, the Casper R. Taylor, Jr. House Building.

In another legislative matter, [SB 335](#) (passed) repeals the June 30, 2005 termination date of the legislative Joint Technology Oversight Committee, which was created in 2000 as part of the Maryland Uniform Computer Information Transactions Act. The committee is

responsible for overseeing the implementation of the Act, which established rules governing sales and license agreements for computer information products.

While the Governor did not choose to reorganize any other State departments, he did seek through [SB 390/HB 860](#) to rename the Department of Juvenile Justice (DJJ) as the Department of Juvenile Services and to transfer to the Department of Education (MSDE) the educational programs of the Charles H. Hickey, Jr. School, one of the juvenile facilities that DJJ currently manages. The legislation reflected the Governor's juvenile services reform efforts called "A Child First Approach" that focused on a thorough needs assessment when children first enter the system and on wraparound services for children who do come in contact with the system. The bills also responded to a recent audit of DJJ that revealed numerous problems, including very significant issues in the educational services at the Hickey School.

[HB 860](#), as amended by a conference committee and then approved by both chambers, requires the MSDE to work with the renamed Department of Juvenile Services to develop a schedule for implementation of an educational program at the Hickey School that is consistent with the federal No Child Left Behind Act of 2001. Educational services are to be operable in fiscal 2004, but the actual transfer of the services to MSDE will be delayed pending funding in the State 2005 budget. As originally drawn, the legislation would have transferred this function to MSDE much sooner, but the money for the transfer was deleted from the State budget.

Legislation making changes to the State Retirement and Pension System of Maryland (SRPS) passed. [HB 595](#) alters the eligibility requirements for membership on the Board of Trustees of the System. The bill requires that 1 of 2 trustees who are elected by teachers' system members and retirees must be a retiree.

A more comprehensive [SB 721](#) (passed) makes quite a number of changes to the composition and governance of SRPS and creates an Employee Retirement Benefits Commission to study pension and retiree health benefits. The legislation came in response to various governance and investment expertise issues in light of SRPS's relationship with one of its external managers, who is under criminal investigation for the manager's handling of SRPS's investments, and the general perception that SRPS's investment performance has been poor. [SB 721](#)'s provisions, among other things:

- add 3 public-member trustees to be appointed by the Governor (with advice and consent of the Senate) with pension and investing expertise. (The public members may not be affiliated with any of the external investment managers employed by SRPS); and
- add an 80% attendance requirement for board members and require that each trustee complete at least 8 hours of investment and fiduciary training during each calendar year. No formal investment or fiduciary training is currently required.

Legislative scrutiny of State procurement statutes resulted in the creation of a Task Force to Study Efficiency in Procurement. The task force will be composed of legislators, other State officials, and individuals from the private sector with expertise in information technology, construction, commodities, human or health care services, correctional services, and engineering, architectural, or other professional services ([SB 492](#)). By the end of this year, the Governor and legislature will receive a report on a myriad of topics relating to State procurement.

The State currently offers a 5% price-preference for the purchase of products made with recycled materials. Processed and pasteurized chicken litter will now be included as recycled materials that receive a price preference in the procurement of goods by the State ([SB 473/HB 325](#)).

Several measures related to the State's Minority Business Enterprise (MBE) program were also approved:

- [SB 715](#) requires a number of agencies that are currently exempt from State procurement laws to comply with the State's MBE requirements and requires the Board of Public Works to keep a record of requested waivers and submit them to the General Assembly; and
- [HB 1109](#) allows continued participation in a minority business program under certain conditions when a certified minority business enterprise contractor or subcontractor exceeds the maximum personal net worth requirement of the program. The bill also mandates a study, among other tasks, to determine whether under current economic conditions, it continues to be appropriate to prohibit an individual whose personal net worth exceeds

\$750,000 from being considered economically disadvantaged.

[SB 526](#) (failed) would have required certain recipients of loans or grants from public or quasi-public State agencies to comply with MBE procurement goals and requirements.

Bills that addressed the question of leave for State personnel who are called to active duty passed. [SB 505/HB 816](#) grant military administrative leave, under certain conditions, to State employees who were on active military duty on July 1, 2003 or are activated for military duty on or after July 1, 2003. The leave provision remains effective until June 30, 2004.

A second year introduction of the bill ([HB 98](#)) to name walking as the State exercise resulted in passage of the legislation. The 2003 General Assembly also agreed to name the Thoroughbred as the State horse ([SB 43](#)). Now, in addition to a State exercise and horse, as well as a State flag, and seal, Maryland has an official State cat, crustacean, bird, boat, dinosaur, dog, drink, fish, flower, folk dance, fossil shell, insect, reptile, song, sport, summer theater, theater, and tree.

TRANSPORTATION

A heavily amended measure has passed that allows State and local jurisdictions to authorize the use of speed monitoring systems by ordinance or resolution in residential neighborhoods and school zones. [SB 455](#) creates a Homeland Security Fund to receive a portion of the penalties collected from violations recorded by the speed monitoring systems and to distribute the money to volunteer and professional firefighters and the State Police for homeland security purposes. Signs in school zones must indicate that speed monitoring systems are in use, and warnings are required for at least 45 days after the 1st speed camera is placed in a local jurisdiction.

Also approved, [SB 193](#) will ensure that the length of time that a yellow light is lit at an intersection with a red light camera is in accordance with State Highway Administration regulations.

Unsuccessful traffic monitoring bills included:

- [HB 587](#) that would have created a task force to study the use of traffic control signal and speed monitoring systems; and

- [SB 246](#) that would have eliminated the traffic control signal monitoring systems, except in school zones, at railroad crossings, or when a law enforcement officer is present and could issue a citation at the time and place of the violation.

Tougher drunk driving laws, if the Governor agrees, will result from:

- [HB 6](#) and [SB 383](#) (passed), commonly referred to as John's Law, that prohibit a person who has been arrested for alcohol and/or drug-related driving offenses from driving within 12 hours after being arrested;
- [SB 380/HB 94](#) (passed) that consider a conviction for a crime committed in another state or federal jurisdiction as a prior offense in Maryland, when the offense would constitute a violation of this State's alcohol-and drug-related driving provisions. (Subsequent offender penalties would apply under the bills);
- [SB 427/HB 347](#) (passed) that extends the type of alcohol-and drug-related driving cases in which participation in an alcohol or drug treatment or education program approved by DHMH is required as a condition of probation; and
- [SB 405](#) (passed) that repeals the authority of a court to order community service but retains a mandatory minimum penalty of imprisonment for not less than 5 days of a person who is convicted of an offense of driving while under the influence of alcohol within 5 years after a prior conviction. The person must be required by the court to undergo a comprehensive alcohol abuse assessment, and if recommended at the conclusion of the assessment, participate in an alcohol program.

However, a number of other alcohol-related proposals were defeated before the final days of the session. The bills would have:

- expanded, from 5 to 10 years, the period in which a prior conviction for certain alcohol-or-drug-related driving offenses disqualifies the person from eligibility for probation before judgment ([SB 94/HB 249](#));
- required a driver under the age of 21 who was cited for driving or attempting to drive while having any

alcohol in the blood to appear in court, instead of prepaying the fine ([HB 252](#)); and

- required that a person involved in a motor vehicle accident resulting in death or a life-threatening injury to submit to 2 tests to determine alcohol and/or drug use if reasonable grounds existed ([SB 379](#)).

[SB 34](#) and [HB 42](#) were approved to allow the County Commissioners of Somerset County to grant a franchise for a ferry company to operate between Somerset County and Reedville, Virginia on an exclusive basis notwithstanding any anticompetitive effect. A ferry company that is granted a franchise may not conduct any gambling or gaming activities on the ferries.

Quite a number of proposals were considered that concerned the licensing of Maryland drivers. [HB 838](#) (passed) requires an applicant for a driver's license to furnish a social security number on the application and sets up a task force to study whether restrictions should be eased to allow illegal immigrants to obtain a Maryland driver's license. The task force will report its findings by this December, and make recommendations regarding what documentation the MVA may accept for the purpose of proving the age, identity, and residence of a driver's license applicant, if the applicant does not have a social security number. The task force will also study the feasibility, including the cost, of developing a process for reviewing drivers' license applications to determine whether the applicant poses a danger to public safety.

Defeated licensing measures included:

- [SB 63](#) that would have prohibited a licensed driver under the age of 18 from driving with a passenger under the age of 18 for the first 6 months after the driver's license was issued. The restriction would not have applied to a passenger who was a spouse, daughter, son or sibling of the driver;
- [SB 370](#) that would have increased from 3 to 5 the number of points assessed against a driver who failed to stop for a school vehicle that is stopped with activated flashing red lights and increased from 2 to 5 points assessed if the driver failed to remain stopped; and
- [HB 73](#) that would have required a driver in the far left lane of a road with 2 or more lanes moving in the same direction to yield the left lane to faster

moving vehicles, when it is safe and practicable to do so. The measure would not have applied to a vehicle preparing for a left turn or a vehicle in a high occupancy vehicle lane.

Legislation ([HB 63](#)) that would have prohibited a driver of a motor vehicle that was in motion from using a handheld telephone has been defeated for a 4th straight year.

Other measures that died would have:

- required the Maryland Transportation Authority to stop collecting tolls for the Chesapeake Bay Bridge if traffic were congested in a line extending more than 5 miles from the bridge ([HB 51](#));
- amended the Maryland Constitution by establishing a Transportation Trust Fund to be used only for the purpose of paying the principal of, and interest on, Transportation Bonds as they became due and payable, and for any lawful purpose related to the construction and maintenance of a highway system in the State or any other transportation-related purpose. No part of the money in the Fund would have been reverted or credited to the General Fund of the State as has been proposed in other measures during this session to help balance the budget ([SB 757/HB 1157](#)); and
- established a Transportation Public-Private Partnership Program in the Maryland Transportation Authority (MdTA) that would have developed partnership agreements between private entities and MdTA or the Maryland Department of Transportation to acquire, construct or improve transportation facilities and to maintain and service new, expanded, or purchased transportation facilities ([SB 497](#)).

UTILITIES

[SB 549/HB 780](#) (passed) require the establishment of enhanced 911 service in the State. The Emergency Numbers Systems Board must establish, with input from local jurisdictions, guidelines and a plan for implementation of enhanced service by July 1, 2004. Under the bills, the State accessible service subscriber fee on telephone bills will increase to 25 cents per month from 10 cents and the maximum additional monthly fee that counties can charge will go to 75 cents from 50 cents. The bills also provide for Board procedures if a

county does not have an operational wireless enhanced 911 system within the time frame established by the Board.

[SB 504/HB 797](#) (passed) require the Public Service Commission (PSC) to continue collecting \$34 million annually from electric customers to fund the Electric Universal Service Program (EUSP). The EUSP, supported through surcharges on customer's bills, assists low-income households with their electrical bills and with weatherization. The passed bills add provisions to provide that during a fiscal year a certain amount of money may be used to assist customers to retire arrearages, if they have not previously received assistance.

The legislation also allows customers to benefit from EUSP who would otherwise qualify for income waivers under the Maryland Energy Assistance Program, which receives federal funds to assist low-income households with their energy bills. Further, the bills add provisions concerning Fund eligibility, setting timelines for disbursement, and requiring that, at a certain point, money be returned to customer classes, in the form of a credit, in the same proportion that they contributed to the Fund.

Failed 2003 legislation addressed electricity, other energy sources, telephone services, and water services. The defeated bills included:

- [HB 370](#) that would have required the PSC to establish a Clean Energy Portfolio Standard that applied to all retail electricity products sold in the State;
- [HB 24](#) that would have set up a pilot program to authorize Prince George's or Montgomery Counties to allow a municipal corporation or the counties to act as an aggregator that purchases electricity on behalf of consumers;
- [SB 37](#) that would have authorized a local government to act as an aggregator for electricity or gas customers;
- [SB 763/HB 899](#) that would have expanded local calling areas by requiring the PSC to classify as toll-free any telephone call made within a single county or between a point in 1 county and another point within 40 miles of that county;
- [SB 764/HB 898](#) that would have required the PSC to seek approval from the Federal Communications Commission to establish local calling between Local Access Transport Areas in adjacent states including Virginia, Pennsylvania, Delaware and the District of Columbia;
- [SB 3/HB 610](#) that would have required the PSC to create a database of residential telephone subscribers in the State who did not want to receive telephone solicitations; and
- [HB 976](#) that would have required a residential landlord to bill each tenant separately for the actual cost of utilities used such as water, rather than allocating utility charges to tenants on other factors such as per tenant or by the square foot of the rental unit.